

APPEAL NO. 022123  
FILED OCTOBER 7, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on June 27, 2002. The record closed on July 5, 2002. The hearing officer resolved the disputed issues by determining that the deceased employee was in the course and scope of his employment when he was involved in a fatal motor vehicle accident on \_\_\_\_\_. The hearing officer further determined that (spouse), MG (minor child), JG (minor child), and AG (minor child), are all eligible beneficiaries of the deceased worker under the 1989 Act. The appellant (carrier) appealed the determination that the deceased employee was in the course and scope of his employment at the time of the motor vehicle accident on sufficiency grounds. The respondents (claimant/beneficiaries) responded, urging affirmance.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer has become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the carrier signed for the hearing officer's decision on Monday, July 29, 2002. The applicable law governing this case, Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE §143.3(c) (Rule 143.3(c)), requires that an appeal, to be timely, must be filed or mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Commission not later than the 20th day after the date of receipt of the hearing officer's decision. Section 410.202 was amended June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. In accordance with amended Section 410.202, the appeal was due on August 19, 2002. The carrier's appeal was faxed to the Commission on August 20, 2002, and was also mailed to the Commission; however, it is likewise postmarked August 20, 2002. Both the faxed copy and the mailed copy were filed on August 20, 2002, one day late. Thus, the appeal is untimely and, by operation of Section 410.169, the hearing officer's decision has become final.

The true corporate name of the insurance carrier is **TEXAS MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**RUSSELL R. OLIVER, PRESIDENT  
221 WEST 6<sup>TH</sup> STREET  
AUSTIN, TEXAS 78701.**

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Elaine M. Chaney  
Appeals Judge

CONCUR:

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Judy L. S. Barnes  
Appeals Judge

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Veronica Lopez  
Appeals Judge